

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**UNITED STATES OF AMERICA,**

**v.**

**Criminal Action No. 3:21-CR-49  
(GROH)**

**JONATHAN TOEBBE and  
DIANA TOEBBE,**

Defendants.

**PROPOSED COMPLEX CASE SCHEDULE**

Now comes the United States of America and William J. Ihlenfeld, II, United States Attorney for the Northern District of West Virginia, by Jarod J. Douglas, Assistant United States Attorney for said District, Jessica Lieber Smolar, Special Assistant United States Attorney for said District, and S. Derek Shugert and Matthew J. McKenzie, Trial Attorneys, U.S. Department of Justice, National Security Division, and Defendant Jonathan Toebbe, by counsel Nicholas J. Compton, Esq., and Defendant Diana Toebbe, by counsel Edward B. MacMahon, Jr., Esq. and Barry P. Beck, Esq., and, having met and conferred as required by Local Rule of Criminal Procedure 16.01(h)(2), hereby propose the following complex case schedule pursuant to Local Rule of Criminal Procedure 16.01(h)(3):

United States' Rule 16 UNCLASSIFIED Discovery "Rolling" Disclosure	
First	<b>November 10, 2021</b>
Second	<b>January 14, 2022</b>
Third/Final <sup>1</sup>	<b>February 17, 2022</b>

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<sup>1</sup> Use of the word "final," here represents the government's intention that this disclosure will be its final Rule 16 disclosure of unclassified discovery. However, the government will remain under the obligation to supplement its Rule 16 disclosure of unclassified discovery after this date.

Exculpatory Evidence Disclosure	<b>February 17, 2022</b>
Reciprocal Discovery Disclosure	<b>March 1, 2022</b>
Pretrial Motions	<b>March 21, 2022</b>
Pretrial Motion Responses	<b>March 28, 2022</b>
Pretrial Motion Hearing	<b>March 30, 2022</b>
Rule 404(b), <u>Giglio</u> , and <u>Roviaro</u> Evidence Disclosure	<b>April 11, 2022</b>
<u>Jencks</u> Disclosure	<b>April 11, 2022</b>
Motions in Limine	<b>April 18, 2022</b>
Proposed Voir Dire and Jury Instructions	<b>April 18, 2022</b>
Witness and Exhibit Lists	<b>April 18, 2022</b>
Plea Agreement	<b>April 25, 2022</b>
Pretrial Conference	<b>May 5, 2022</b>
Jury Selection/Trial	<b>May 17, 2022 (two to three weeks)</b>

To date, adjudication of the requisite security clearances for defense counsel remains pending. Accordingly, this schedule does not include a disclosure deadline for classified discovery. In the event of timely adjudication, the parties intend to propose February 17, 2022 as the deadline for disclosure of classified discovery. The parties will propose that date or, if necessary, another date, once adjudication is complete.

WHEREFORE, the parties respectfully ask the Court to enter a new scheduling order using the proposed complex case schedule outlined above.

Respectfully submitted,

/s/ Jarod J. Douglas

Jarod J. Douglas

Assistant United States Attorney

/s/ Jessica Lieber Smolar

Jessica Lieber Smolar

Special Assistant United States Attorney

/s/ S. Derek Shugert

S. Derek Shugert

U.S. Department of Justice Trial Attorney

/s/ Matthew J. McKenzie

Matthew J. McKenzie

U.S. Department of Justice Trial Attorney

/s/ Nicholas J. Compton

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Counsel for Defendant Jonathan Toebbe

/s/ Edward B. MacMahon, Jr.

Edward B. MacMahon, Jr.

Counsel for Defendant Diana Toebbe

/s/ Barry P. Beck

Barry P. Beck

Counsel for Defendant Diana Toebbe